
(2010) 12 CAL CK 0105
In the Calcutta High Court
Case No : W.P.L.R.T. 130 of 2010

Pashupati Das

APPELLANT

Vs

The Block Land and Land Reforms Officer and Others

RESPONDENT

Date of Decision : 09-12-2010

Acts Referred:

Citation : (2011) 2 CALLT 391 : (2011) 3 CHN 13

Hon'ble Judges : Pratap Kumar Ray, J; Mrinal Kanti Sinha, J

Bench : Division Bench

Advocate : Kishore Mukherjee, for the Appellant; Sitaram Samanta, for the Respondent

Final Decision : Allowed

Judgement

Pratap Kumar Ray, J.—Heard the learned Advocates appearing for the parties.

2. Assailing the order dated 11th August, 2010 passed by the West Bengal Land Reforms and Tenancy Tribunal, 1st Bench in O.A. 493 of 2009 (LRTT), this writ application has been filed. The impugned order reads such:

We have heard the learned Counsel for the Petitioner and the learned Govt. Representative. Ld. Govt. Representative raised objection. It is revealed at the time of hearing that the land in question was sold in the year 1945. However, the names of the Petitioners were not recorded in the R.S. record of rights their names was not recorded in the L.R. record of rights. Though one Civil Court's order is in their favour we cannot accept the same as there is no evidence that the present Petitioner was in possession after vesting as per W.B.E.A. Act.

In view of the said position, we are unable to pass any direction upon the B.L. & L.R.O. concerned and accordingly the instant application is dismissed.

Let a plain copy of this order duly countersigned by the Principal Officer of the Tribunal be made over to the learned Govt. Representative for communication to the concerned Authority for information and Xerox certified copy of the order, if

applied for by the applicant, be delivered subject to payment of requisite Court fees.

3. We are very much surprised to read the order passed by the learned Tribunal below whereby and where under it has been held by the learned Tribunal that irrespective of the order of the Civil Court as the writ Petitioner's name was not recorded in the revisional settlement record of rights and thereafter in the L. R. settlement, his application should be rejected. The entry in the record of rights only has a presumptive value and a rebuttable presumption so far as possession is concerned. It does not vest any title of the property to the recorded person. Since the writ Petitioner set up a case of declaration of his title by decree of a Civil Court, the findings of the learned Tribunal below is contrary to the provision of law.

4. It is a settled law that entry of the record of rights does not vest any title over the property. Reliance is placed to the judgment passed in the case *Narasamma and Ors. v. State of Karnataka and Ors.* reported in 2009 (2) ICC 669 (SC) wherein earlier judgment of *Jattu Ram Vs. Hakam Singh and others*, . It is held that the revenue record cannot create any title. In the case *Suraj Bhan and Others Vs. Financial Commissioner and Others*, , the Court held "it is well settled that an entry in revenue records does not confer title on a person whose name appears in the record of rights, it is settled law that entries in the revenue records or Jamabandi have only "fiscal purpose" i.e. payment of land revenue and no ownership is conferred on the basis of such entries. So far as the title to the properties is concerned, it can only be decided by a competent Civil Court." Same view has been reiterated by the Apex Court in the case *Narain Prasad Agrawal (Dead) by L. Rs v. State of Madhya Pradesh* reported in 2007 (4) ICC (SC) 105. Very recently in the case *Fagruddin (Dead) L. Rs v. Tajuddin (Dead) L. Rs* reported in 2010 (1) ICC (SC) 457, the Apex Court reiterated the said proposition of law, relying upon *Suraj Bhan (supra)* and *Narayan Prasad Agarwal (supra)*.

5. Having regard to the fact that the writ Petitioner is aged 80 years without remanding the matter back and on hearing the submission of the learned Advocate of the State who has not opposed the prayer as made by the learned Advocate for the writ Petitioner for passing necessary order directing the concerned Block Land and Land Revenue Officer to decide the issue for correction of record of rights on the strength of Civil Court decree, I am of the view that appropriate order to be passed to shorten the litigation.

6. The writ application is allowed by quashing the impugned order of the Tribunal and Block Land and Land Revenue Officer concerned is directed to decide the application for correction of the record of rights on the basis of the Civil Court decree within three months from the date of communication of the order upon giving opportunity of hearing to the parties concerned.

The writ application is thus allowed.